IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4257 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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J A PANCHAL & 21 - Petitioner(s)

Versus

HITVIC ENGG. & MFG. (P) LTD. & 4 - Respondent(s)

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Appearance :

MR RV DESAI for Petitioner No(s).: 1,2,3,4,
5,6,7,8,9,10,11,12,13,
14,15,16,17,18,19,20,21.

MR MK VAKHARIA for Respondent No(s).: 1.
MR K L PANDY AGP for Respondent No(s).: 2.
MR BHARAT T RAO for Respondent No(s).: 3.
MR PK SHUKLA for Respondent No(s).: 3.
MR NANDISH Y CHUDGER for Respondent No(s).: 4.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 22/06/2005

ORAL JUDGMENT

1.0 The petitioners herein have prayed to direct respondent no.1 Company to pay their accrued legal dues and to direct respondent no.3 to recover the P.F. dues of the petitioners from respondent no.1 and pay the same to the petitioners and to prevent respondent no.1 from entering into any transaction of sale or otherwise in respect of respondent no.1s' premises.

2.0 The brief facts of the case are that the petitioners herein were working with respondent no.1 – Company and on account of some dispute as regards the loan taken by the respondent Company from Central Bank of India, Anand Branch, the authorities of the Bank took over the respondent Company.

2.1 It is the case of the petitioners that the respondent Company has not paid any of their legal dues and has even attempted to sell the factory premises to a third party. Since their dues were not paid, the petitioners had even approached respondents no.2 & 3 authorities. It is the further case of the petitioners that respondent no.4 herein has purchased respondent no.1 Company as a Going Concern with all assets and liabilities. Feeling aggrieved by the action of the respondent authorities, the petitioners have preferred this petition before this Court.

3.0 Before proceeding with the matter, it is required to

be noted that no reliefs have been claimed against respondent no.4 herein. Moreover, the possession of the factory of respondent no.1 Company is already taken over by Central Bank of India and this petition has been preferred after almost eleven years of such take over.

4.0 Mr.M K Vakharia learned advocate appearing for respondent no.1 Company has submitted that pursuant to the Notice issued by this Court, respondent no.1 Company has made payment of the outstanding arrears towards Provident Fund contribution and that the attachment made over the property by the Recovery Officer of the E.P.F. Office, Ahmedabad, has been released. He has, therefore, submitted that respondent no.1 Company has paid all dues in respect of the Provident Fund contribution.

5.0 I have heard learned counsel for the parties and perused the documents placed on record. In view of the statement made by Mr. Vakharia, it would be appropriate if Respondent no.3 – Provident Fund Authority, is directed to make the payments to the petitioners workmen after verifying the necessary records.

6.0 So far as the prayer of the petitioners as regards preventing respondent no.1 Company from entering into any transaction either by way of sale or otherwise in respect of respondent no.1s' Company is concerned, the same cannot be granted in view of the fact that the factory was transferred much before the petition came to be filed. The remedy available to the petitioners is to approach the

appropriate Authority under relevant Act. No relief can be granted by this Court with respect to the aforesaid relief.

7.0 In above view of the matter, respondent no.3 – Provident Fund Authority, is directed to verify the records and after verifying the same, shall make the payments to the petitioners workmen. With the above direction, the petition stands disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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